



Department of Justice
Canada

Ministère de la Justice
Canada

s.21(1)(a)

s.21(1)(b)

FOR INFORMATION

NUMERO DU DOSSIER/FILE #: 2016-014576

COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: Protected B

TITRE/TITLE: CRTC request to become an investigative body for the purposes of the *Access to Information Act* and the *Privacy Act*

SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY

- [REDACTED]
[REDACTED] the CRTC be designated as an investigative body for the purposes of paragraphs 16(1)(a) of the *Access to Information Act* (ATIA) and 22(1)(a) of the *Privacy Act* (PA).

- An investigative body designation allows a government institution subject to the ATIA and the PA, to invoke a class-based exemption for records or personal information obtained or prepared by the designated investigative body in response to access requests submitted under either Act. There is no need to demonstrate that disclosure would cause injury.

- [REDACTED]
[REDACTED] Currently, there are eight investigative bodies that can benefit from paragraph 16(1)(a) of the ATIA and nine that can benefit from paragraph 22(1)(a) of the PA.

- [REDACTED]

- [REDACTED]

Soumis par (secteur)/Submitted by (Sector):

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MEMORANDUM FOR THE MINISTER

CRTC request to become an investigative body for the purposes of the *Access to Information Act* and the *Privacy Act*

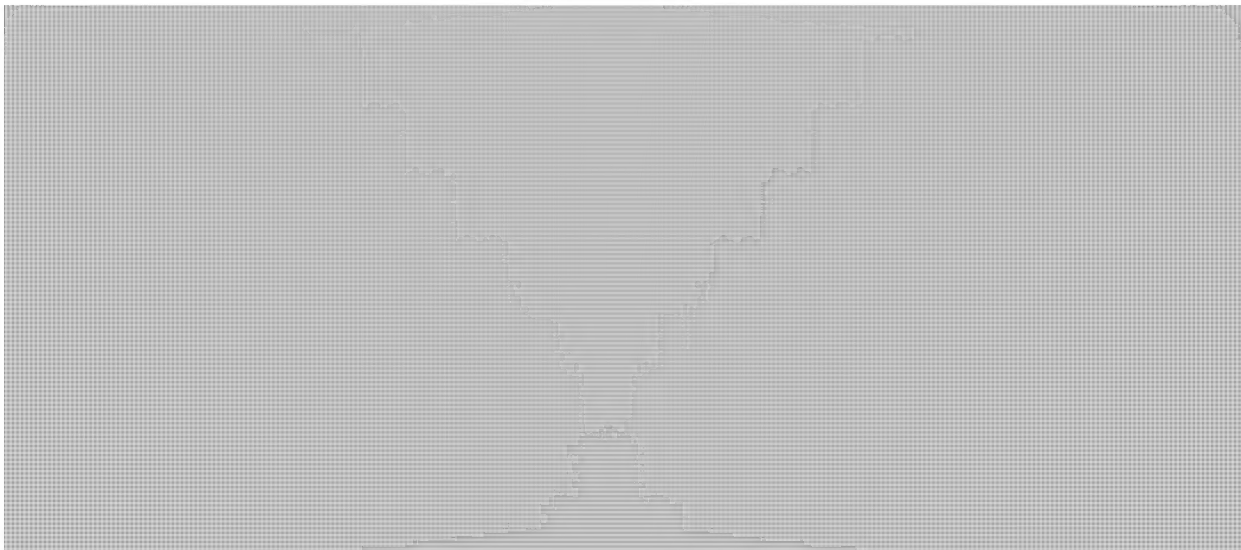
ISSUE

 the CRTC be designated as an investigative body for the purposes of paragraphs 16(1)(a) of the *Access to Information Act* (ATIA) and 22(1)(a) of the *Privacy Act* (PA).

BACKGROUND

An investigative body designation under paragraphs 16(1)(a) of the ATIA and 22(1)(a) of the PA allows a government institution subject to the ATIA and the PA to invoke a class-based exemption for records or personal information obtained or prepared by the designated investigative body in response to access requests submitted under either Act. This exemption, while being limited in time to 20 years, is easier to invoke than the other exemptions protecting the disclosure of law enforcement information as it does not require that the disclosure of the information be injurious to investigations or the investigation process.


An investigative body designation is granted by the Governor-in-Council, under section 77 of both the ATIA and the PA, on the recommendation of the Minister of Justice.

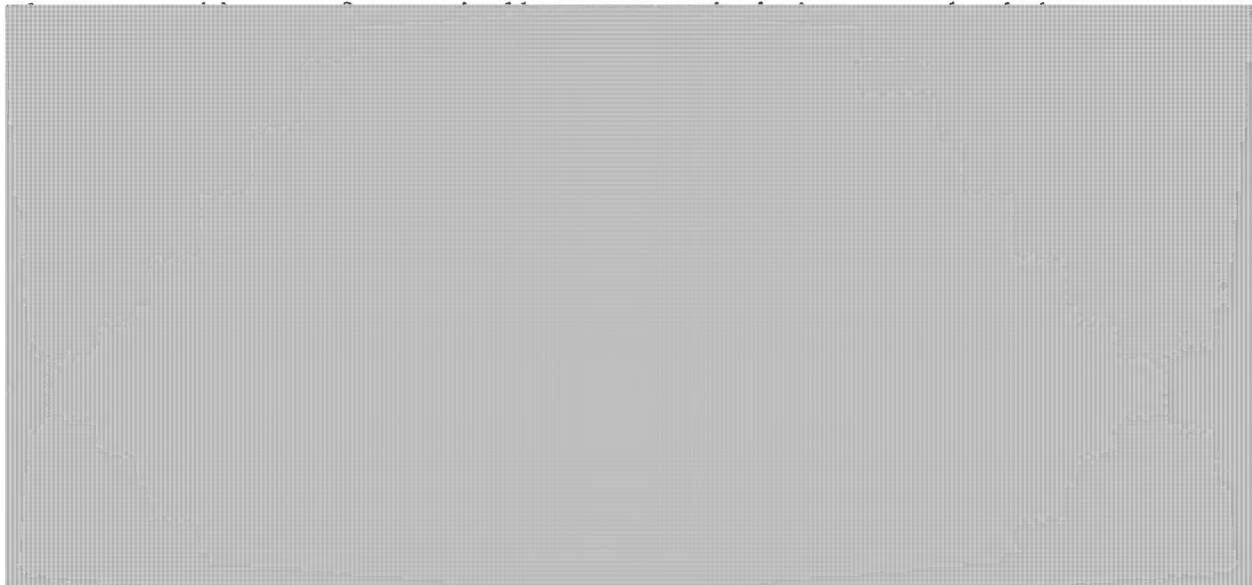


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CONSIDERATIONS

Paragraphs 16(1)(a) of the ATIA and 22(1)(a) of the PA allow information to be exempted from disclosure, without having to consider the actual impact that the disclosure may have. 



Consecutive Information Commissioners, including the current Commissioner, Ms. Suzanne Legault, have asked for the repeal of paragraph 16(1)(a) of the ATIA. In the Commissioner's view, an exemption to the right of access, such as paragraph 16(1)(a) of the ATIA, which does not include an injury test, does not belong in access to information legislation. The Privacy Commissioner has also called on Parliament to limit the exemptions to the right of access in the PA that do not have an injury test, but has not specifically requested that paragraph 22(1)(a) of the PA be repealed.

CONCLUSION



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ANNEXES

Annex 1: List of investigative bodies under paragraphs 16(1)(a) of the ATIA and 22(1)(a) of the PA

Annex 2:

Annex 3:

PREPARED BY

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ANNEX 1

Investigative Bodies for the Purposes of Para. 16(1)(a) of the ATIA

Canadian Forces Military Police
Canadian Forces National Counter-Intelligence Unit
Canadian Security Intelligence Service
Director of Investigation and Research, Department of Consumer and Corporate Affairs
Intelligence and Targeting Operations Directorate, Canada Border Services Agency
Preventive Security, Security Branch, Correctional Service of Canada
Royal Canadian Mounted Police
Special Investigations Division, Department of National Revenue (Taxation)

SOR/84-570, s. 1;
R.S., 1985, c. 35 (2nd Supp.), s. 15(E);
SOR/2002-341, s. 1;
SOR/2010-145, s. 1;
SOR/2013-114, ss. 1 to 3.

Investigative Bodies for the Purposes of Para. 22(1)(a) of the PA

Canadian Forces Military Police
Canadian Forces National Counter-Intelligence Unit
Canadian Security Intelligence Service
Director of Investigation and Research, Department of Consumer and Corporate Affairs
Intelligence and Targeting Operations Directorate, Canada Border Services Agency
Preventive Security, Security Branch, Correctional Service of Canada
Royal Canadian Mounted Police
Security and Investigative Services, Canada Post Corporation*
Special Investigations Division, Department of National Revenue (Taxation)

SOR/84-571, s. 2;
R.S., 1985, c. 35 (2nd Supp.), s. 15;
SOR/2002-342, s. 2;
SOR/2010-146, s. 5;
SOR/2013-115, ss. 9 to 11.

* When, in 1984, the Security and Investigative Services Unit of Canada Post Corporation was added to the list of investigative bodies for the purposes of para. 22(1)(a) of the PA, Canada Post was not subject to the ATIA. Since becoming subject to the ATIA in 2006, Canada Post has not asked for a designation under para. 16(1)(a) of the ATIA.

ANNEX 2

Pages 8 to / à 10
are withheld pursuant to sections
sont retenues en vertu des articles

21(1)(a), 21(1)(b)

of the Access to Information Act
de la Loi sur l'accès à l'information

ANNEX 3

**Pages 12 to / à 13
are withheld pursuant to sections
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21(1)(a), 21(1)(b)

**of the Access to Information Act
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